

1 Remarks

2 Withdrawal of earlier filed Preliminary Amendment

3 On January 16, 2002, the mailing date of the Office action, the Applicants filed  
4 a Preliminary Amendment by facsimile. The Preliminary Amendment was  
5 responsive to a telephonic conversation between the Examiner (Victor Taylor) and  
6 Applicants' attorney (John Reid) on January 3, 2002.

7 Since the Office action hereby being responded to was mailed on January 16,  
8 2002 (the date the Preliminary Amendment was filed), and since there was no record  
9 included with the Office action of the January 3, 2002 telephonic conversation  
10 between the Examiner and Mr. Reid, the Applicants respectfully request that the  
11 January 16, 2002 Preliminary Amendment be withdrawn and any amendments made  
12 thereby not be entered.

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14 Objections to the Drawings

15 "Prior Art"

16 Figs. 1-5 in the drawings have been objected to as being "prior art" from U.S.  
17 Patent Nos. 6,028,820 and 5,796,678, and the Examiner has stated that the legend  
18 "Prior Art" therefore needs to be added to these figures. (See paragraph 1 of the  
19 Office action.)

20 The Applicants respectfully disagree. Figures 1-5 are figures from earlier  
21 patent applications (now U.S. Patent Nos. 6,028,820 and 5,796,678) which the  
22 instant application claims continuation-in-part ("CIP") priority status to under 35  
23 U.S.C. § 120. (See page 1, lines 3-7 of the specification.) Under 35 U.S.C. § 120,  
24 the instant application is "entitled to the same effect . . . as though filed on the date of  
25 the prior application." This includes the benefit of not having to label drawings from  
the earlier application as "prior art". The Applicants have searched the MPEP and  
37 C.F.R. and have been unable to find any authority for requiring drawings in a CIP

1 application, which are common to drawings from an earlier parent application, to be  
2 labeled as "prior art". MPEP § 608.02(g) does not address continuation or  
3 continuation-in-part applications. Following the logic of requiring common drawings  
4 from priority applications to be labeled as "prior art", then all common descriptive  
5 material would have to be placed in the "background" section of the application.  
6 Further, it does not make any difference that the present application is a  
7 continuation-in-part application, and not a continuation application. It is clear that  
8 there is no requirement to relabel drawings in a continuation application as "prior art".  
9 There is no reason why a different standard should be applied to a continuation-in-  
10 part application.

11 The Applicants therefore respectfully request that the Examiner either (1) cite  
12 to the rule which requires drawings in a continuation-in-part application, which are  
13 common to drawings in a parent application, to be labeled as "prior art", or (2)  
14 withdraw the request.

15 Once this matter is resolved, the Applicants will submit substitute formal  
16 drawings, as described below. However, due to the cost of reproducing the  
17 drawings, the Applicants do not wish to submit what they believe to be confirming  
18 drawings, only to have to resubmit them again later.

19  
20 Drawing Page Numbers

21 The drawings have been objected to due to the page numbering (see  
22 paragraph 2 of the Office action).

23 In response, a proposed substitute set of drawings are enclosed herewith,  
24 having page numbering of 1/9 through 9/9 for the nine sheets of drawings. The  
25 drawings are all in black-and-white, with the revised page numbering circled in red.

Once the issue regarding the labeling of Figs. 1-5 as "prior art" (discussed  
above) is resolved, the Applicants will submit formal drawings. Although the

1 Examiner has stated that the requirement to address the objections to the drawings  
2 will not be held in abeyance, the Applicants respectfully request that the Examiner  
3 understand that submitting formal drawings at this time may lead to additional cost to  
4 the Applicants, depending on how the issue regarding Figs. 1-5 is resolved. The  
5 Applicants therefore respectfully request that the Examiner accept the attached  
6 redlined drawings for the time being, and understand that the Applicants are making  
7 a good faith effort to comply with the Examiner's requirements.

#### 8 9 New Formal Drawings

10 The Examiner has indicated that new formal drawings are required, and cites  
11 to "USPTO form 948 attached to paper 4." (See paragraph 3 of the Office action.)

12 The Applicants have every intention of complying with the Official  
13 Draftsperson's requirements, but Applicants have not received the referenced  
14 USPTO form 948. Applicants are unable to determine what paper 4 was or is. Since  
15 the instant Office action is unnumbered, the Applicants cannot tell what paper 4 may  
16 have comprised.

17 The Applicants therefore respectfully request that a copy of the referenced  
18 USPTO form 948 be sent to the Applicants' below-signed attorney. The Applicants  
19 request that the form be sent by facsimile to (509) 532-0351 to expedite any  
20 additional required revisions to the drawings.

21 Meanwhile, the Applicants also submit herewith proposed substitute drawings  
22 for sheets 7-9, which have improved line quality and lettering quality, and remove the  
23 stippling found in Fig. 7. The Applicants suspect that these substitute drawings may  
24 address many of the objections in the referenced USPTO form 948. No changes  
25 have been made to the drawings other than to correct the page numbering and  
redraw the drawings to comply with the rules.

1 Although the Examiner has stated that the requirement to address the  
2 objections to the drawings noted in the referenced USPTO form 948 will not be held  
3 in abeyance, the Applicants respectfully request that the Examiner understand that  
4 they cannot comply until they have seen the USPTO form 948, and further that the  
5 issue regarding Figs. 1-5 needs to be resolved first (as explained above). The  
6 Applicants therefore respectfully request that the Examiner accept the attached  
7 proposed substitute drawings for the time being, and understand that the Applicants  
8 are making a good faith effort to comply with the Examiner's requirements.

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10 Processing steps not shown in drawings

11 The drawings have been objected to "because they fail to show the claimed  
12 processing steps in a flow chart or processing diagram." (See paragraph 4 of the  
13 Office action.)

14 The Applicants respectfully disagree that the drawings must show the claimed  
15 processing steps. There is no such requirement in the rules. In fact, MPEP §  
16 601.01(f) states, "It has been USPTO practice to treat an application that contains at  
17 least one process or method claim as an application for which a drawing is not  
18 necessary for an understanding of the invention under 35 U.S.C. § 113 (first  
19 sentence)." (Emphasis added.)

20 Since the method of claim 1 is well described in the specification (see, for  
21 example, page 6, lines 6-20), the Applicants believe that the claims have sufficient  
22 support under 35 U.S.C. § 112, and that no drawing is required. The Applicants  
23 therefore respectfully request that the Examiner withdraw this objection to the  
24 drawings.

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